

EXHIBIT 10

Subj: (no subject)
Date: 12/3/2003 7:15 51 PM Eastern Standard Time
From: PPag4
To: TKessler@expressfashion.com

December 3, 2003

Tara,

I would like to summarize our conversation last Tuesday, November 25, 2003 to ensure that I understand what we discussed and what I was asked to do.

Ana, you and I went to Ruby Tuesday's in the Christiana Mall about 11:00AM. You stated that you were aware that I had orientations scheduled for 12:30.

You asked me if I had ever presented doctor's reports to verify my disabilities. I did hand you doctor's reports during our meeting which you handed back and then asked if any doctor ever provided accommodations in writing to the company that I may need.

I mentioned I have had two prior discussions with Ana where I supplied her with various pieces of information regarding my disabilities and various options that may accommodate them but you indicated that I needed to validate my disabilities before accommodations would be considered.

You directed me to call HR Direct within 24 hours and let them know I need accommodations and submit any documentation requested. Once I get the paperwork turned in, it is looked at, evaluated and a determination will be made at some time in the future. You stated that Ana did not have the authority to provide accommodations for me. You pointed out that at this time, I have no accommodations until I complete the Action Plan.

We went over my availability schedule.

I asked for a summarization of your points at the end of our meeting and you made two points.

1. I need to provide documentation as to my disabilities because we have never negotiated my accommodations.
2. My role has changed.

Action Plan

1. Speak with HR Direct within 24 hours.
2. Get paperwork to them.
3. Leave a voicemail when this is completed (5531 no 89 in front of it) so you can get on the phone.

You said you will touch base with me on Monday. You will call me at the store.

The meeting ended around 12:30. I left for work and you and Ana stayed.

Paula

Thursday, January 29, 2004 America Online: PPag4

December 22, 2003

Tara,

I spoke with Ana today and was quite surprised that you told her that I did not have my paperwork in to return to work tomorrow after my medical leave. She was also not aware that no one seems to be able to get in touch with you to determine exactly what is needed to reinstate my accommodations for my disabilities.

You declined to accept the doctor's reports I handed you at our meeting. Susan, my case worker at HR Direct made a guess at what it is you may be wanting and said she would try to help me find out, but she also has not been able to get a response from you upon my last conversation with her last Friday.

As was indicated to you in my e-mail, when I contacted HR Direct as instructed by you, HR Direct felt that this is in your area of responsibility. Several people have told me they have been trying to find out what it is you need, no one seems to know. I am currently acting on Susan's suggestion but it is a time consuming and costly activity. I have gathered some of the information needed and have been advised that more archives have been researched and additional reports will be mailed today but may be delayed due to the holiday week.

I have spent much time and over \$100 in pursuit of information that may or may not be what you require. I would really appreciate a direct response from you so that time and money spent are not in vein.

Paula Pagonakis

Subj: **Compliance**
Date: 12/19/2003 1:43 11 PM Eastern Standard Time
From: PPag4
To: AKlancic@expressfashion.com
CC: TKessler@expressfashion.com, SARthurs@expressfashion.com, PPag4

Ana,

I have done as you have asked and waited for you to advise me in regard to requests made by Tara Kessler on November 25th (Notes from that meeting enclosed) As you know I immediately called HR Direct on the 26th and spoke with Emily who was confused as to why Tara had asked me to call HR Direct. Emily said she would get some information for me. She called me back saying that she had talked with the person Tara reports to and that someone would be in touch with me. Three times you have asked me if I have complied with Tara's requests and three times I have responded that I do not know who to talk to and that no one has contacted me. All three times you told me you would find out for me, that I should wait until I hear from you.

I have still had no word on who to contact or what steps are needed to reinstate my accommodations for my disabilities. I still have the doctor's reports I tried to give to Tara but do not know who needs them.

As indicated in my voicemail to you, I am on a disability leave. I had a followup appointment with my doctor yesterday, Dec. 18th and he has released me for work on the 23rd. Susan from HR Direct has been handling my case and states that all is in order for me to return to work on the 23rd. My doctor has provided a release indicating that previous accommodations should be provided. Susan has advised me that she has left voicemail and e-mail for Tara to help me discover who I should be speaking with and what type of documentation is required to reinstate my accommodations. Neither Susan nor I have had any communication from Tara. Could you please help me with this? I am attempting to have all things in place for my return to work next Tuesday.

Paula

Thursday, January 29, 2004 America Online: PPag4

Subj: **Compliance**
Date: 12/19/2003 1:43:11 PM Eastern Standard Time
From: PPag4
To: AKlancic@expressfashion.com
CC: TKessler@expressfashion.com, SArthurs@expressfashion.com, PPag4
File: **Tara Kessler actual e-mail sent 12-3-03.rtx** (2205 bytes) DL Time (52000 bps) < 1 minute

Ana,

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Paula

Subj: **RE: Compliance**
Date: 12/20/2003 9:48:04 AM Eastern Standard Time
From: AKlancic@expressfashion.com
To: PPag4@aol.com
CC: TKessler@expressfashion.com
Sent from the Internet ([Details](#))

Paula,

I will try to contact Tara on Monday, she has been sick this week and I actually have not heard from her this week. However I spoke to her last week and Tara told me that she has left you a message and you have not returned her phone call!

-----Original Message-----

From: PPag4@aol.com [mailto:PPag4@aol.com]
Sent: Friday, December 19, 2003 1:43 PM
To: EXP Region 20011 - Klancic, Ana
Cc: Kessler, Tara; Arthurs, Shanda; PPag4@aol.com
Subject: Compliance

Ana,

I have done as you have asked and waited for you to advise me in regard to requests made by Tara Kessler on November 25th. (Notes from that meeting enclosed) As you know I immediately called HR Direct on the 26th and spoke with Emily who was confused as to why Tara had asked me to call HR Direct. Emily said she would get some information for me. She called me back saying that she had talked with the person Tara reports to and that someone would be in touch with me. Three times you have asked me if I have complied with Tara's requests and three times I have responded that I do not know who to talk to and that no one has contacted me. All three times you told me you would find out for me, that I should wait until I hear from you.

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Paula

Hinkle, Jennifer

From: Kessler, Tara
Sent: Monday, December 22, 2003 9:23 AM
To: Hinkle, Jennifer
Subject: FW: Compliance

Sorry,,,forgot to Cc: you on the response.

Tara

-----Original Message-----

From: Kessler, Tara
Sent: Monday, December 22, 2003 9:21 AM
To: Arthurs, Shanda
Subject: RE: Compliance

I have left messages for her....she has been on a 3 week leave since the week after Thanksgiving. I am on the phone with HR direct as we speak. It looks as though it is about to get complicated.

-----Original Message-----

From: Arthurs, Shanda
Sent: Monday, December 22, 2003 9:16 AM
To: Kessler, Tara
Cc: Hinkle, Jennifer
Subject: FW: Compliance

Tara,

I believe that you had left messages for Paula after HR Direct called me. . .possibly the day after Thanksgiving, or the day before. Have you followed up with her? THANKS!

-----Original Message-----

From: PPag4@aol.com [mailto:PPag4@aol.com]
Sent: Friday, December 19, 2003 1:43 PM
To: EXP Region 20011 - Klancic, Ana
Cc: Kessler, Tara; Arthurs, Shanda; PPag4@aol.com
Subject: Compliance

Ana,

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3/5/2004

that she has left voicemail and e-mail for Tara to help me discover who I should be speaking with and what type of documentation is required to reinstate my accommodations. Neither Susan nor I have had any communication from Tara. Could you please help me with this? I am attempting to have all things in place for my return to work next Tuesday.

Paula

3/5/2004

-----Original Message-----

From: PPag4@aol.com [mailto:PPag4@aol.com]

Sent: Monday, December 22, 2003 7:15 PM

To: Kessler, Tara

Cc: Arthurs, Shanda; EXP Region 20011 - Klandic, Ana

Subject: (no subject)

December 22, 2003

Tara,

I spoke with Ana today and was quite surprised that you told her that I did not have my paperwork in to return to work tomorrow after my medical leave. She was also not aware that no one seems to be able to get in touch with you to determine exactly what is needed to reinstate my accommodations for my disabilities.

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I have spent much time and over \$100 in pursuit of information that may or may not be what you require. I would really appreciate a direct response from you so that time and money spent are not in vein.

Paula Pagonakis

12/30/2003

Hinkle, Jennifer

From: Hinkle, Jennifer
Sent: Friday, December 26, 2003 9:43 AM
To: 'PPag4@aol.com'
Subject: RE: (no subject)

Thanks for the follow-up Paula. You may want to call Susan @ HR Direct to confirm she received your fax. If you need anything from me, please let me know.

Thanks!

Jennifer Hinkle

HR Manager, Express

Ph # 614.415.4720

-----Original Message-----

From: PPag4@aol.com [mailto:PPag4@aol.com]
Sent: Friday, December 26, 2003 6:49 AM
To: Hinkle, Jennifer
Cc: Heinrichs, Kristin; Kessler, Tara; EXL Region 20011 - Klancic, Ana
Subject: (no subject)

Ms. Hinkle,

I received a note from my doctor later in the day on the 23rd. I believe it is what was requested. I was able to fax it out at work on the 24th. I am not sure what your fax number is. I sent it to the same number Susan at HR Direct gave me. I also sent a copy to Susan and Ana. I do not have a fax number for Tara but was told by Tara that Ana would forward it to her. I hope my file is complete with the information needed so I can continue to contribute my knowledge, skills, experience and abilities to the advancement of the company which in turn creates personal growth for myself. If there is anything else needed, please advise.

Sincerely,

Paula J. Pagonakis

12/30/2003

Hinkle, Jennifer

From: Hinkle, Jennifer
Sent: Monday, December 29, 2003 1:08 PM
To: 'PPag4@aol.com'
Cc: EXP Region 20011 - Klancic, Ana
Subject: RE: (no subject)

Hi Paula, Susan faxed me a copy of your restrictions. It is now up to Ana and your Store Manager to determine if they can make the accommodations outlined by your doctor.

Ana, if you have any questions, or need any assistance while Tara is on PTO, please let me know.

Thanks,
Jennifer Hinkle
HR Manager, Express

-----Original Message-----

From: PPag4@aol.com [mailto:PPag4@aol.com]
Sent: Friday, December 26, 2003 4:46 PM
To: Hinkle, Jennifer
Subject: Re: (no subject)

Ms. Hinkle,

I have to again thank you for your direct and clear communication. I will follow up with Susan as recommended.

Paula J. Pagonakis

12/30/2003

Hinkle, Jennifer

From: Hinkle, Jennifer
Sent: Monday, December 29, 2003 1:31 PM
To: EXP Region 20011 - Klancic, Ana
Subject: RE: (no subject)

Yes and no, we do make every attempt to make an accommodation for an associate. We do however, always have the ability to say the restrictions are too severe and we cannot work with them. In these situations we would work with the lawyers to ensure we were OK with our position. In Paula's situation we may not have a choice because she has been working only day hours for years and years. It would be hard for us now to say that we couldn't accommodate her in this area. Does that make sense?

Have you received a copy of the restrictions? If so, what are your thoughts? If you want to discuss live today, call me at 614-226-6694.

Thanks Ana.

-----Original Message-----

From: EXP Region 20011 - Klancic, Ana
Sent: Monday, December 29, 2003 1:17 PM
To: Hinkle, Jennifer
Subject: RE: (no subject)

Hi Jennifer, thank you for getting this matter taken care of. But I do have a question? Do I really have a choice, but to accommodate her disability?

-----Original Message-----

From: Hinkle, Jennifer
Sent: Monday, December 29, 2003 1:08 PM
To: PPag4@aol.com
Cc: EXP Region 20011 - Klancic, Ana
Subject: RE: (no subject)

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Jennifer Hinkle
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Paula J. Pagonakis

12/30/2003

Hinkle, Jennifer

From: PPag4@aol.com
Sent: Monday, December 29, 2003 6:08 PM
To: Hinkle, Jennifer
Cc: EXP Region 20011 - Kianolo, Ana
Subject: Re: (no subject)

Ms. Hinkle,

I am glad you have received the copy of accommodations needed. Hopefully, all parties needing them, now, have them. If anything further is needed, please do not hesitate to inform me and I will be happy to provide whatever is needed as soon as possible.

FYI: Ana and I have been discussing and working with accommodating my disabilities all along until Tara came into my store and told me that Ana did not have the authority to work with me in this regard and took my accommodations away. Now you are saying it is up to Ana and the store manager to provide these accommodations.

A lot of time, effort and expense for all parties concerned was expended in this exercise. Sorry if I am venting but this has been frustrating, causing me much stress and has cast me in a negative light within the company. It seems to me, all that was needed was an update of my disabilities.

Once again, I appreciate your intervention in providing clarity and direction contributing to the resolution of this matter.

Sincerely,

Paula J. Pagonkais

3/5/2004